

## § 111.21

(3) Set forth the name, broker license number, office address, and telephone number of the individual broker who will exercise responsible supervision and control over the activities of the applicant conducted under the national permit; and

(4) Attach a receipt or other evidence showing that the fees specified in § 111.96(b) and (c) have been paid in accordance with paragraph (c) of this section.

(g) *Review of the denial of a permit*—(1) *By the Assistant Commissioner.* Upon the denial of an application for a permit under this section, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.

(2) *By the Court of International Trade.* Upon a decision of the Assistant Commissioner affirming the denial of an application for a permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Assistant Commissioner's decision.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 01-14, 66 FR 8767, Feb. 2, 2001; CBP Dec. 03-13, 68 FR 43630, July 24, 2003; 72 FR 3734, Jan. 26, 2007]

## Subpart C—Duties and Responsibilities of Customs Brokers

### § 111.21 Record of transactions.

(a) Each broker must keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He must keep and maintain on file copies of all his correspondence and other records relating to his customs business.

(b) Each broker must comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker must designate a knowledgeable company employee to

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be the contact for Customs for broker-wide customs business and financial recordkeeping requirements.

### § 111.22 [Reserved]

### § 111.23 Retention of records.

(a) *Place of retention.* A licensed customs broker may retain records relating to its customs transactions at any location within the customs territory of the United States in accordance with the provisions of this part and part 163 of this chapter. Upon request by CBP to examine records, the designated recordkeeping contact identified in the broker's applicable permit application, in accordance with § 111.19(b)(6) of this chapter, must make all records available to CBP within 30 calendar days, or such longer time as specified by CBP, at the broker district that covers the CBP port to which the records relate.

(b) *Period of retention.* The records described in this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Powers of attorney must be retained until revoked, and revoked powers of attorney and letters of revocation must be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, records relating to the withdrawal must be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

[CBP Dec. 12-12, 77 FR 33966, June 8, 2012]

### § 111.24 Records confidential.

The records referred to in this part and pertaining to the business of the clients serviced by the broker are to be considered confidential, and the broker must not disclose their contents or any information connected with the records to any persons other than those clients, their surety on a particular entry, and the Field Director, Office of International Trade, Regulatory Audit, the special agent in charge, the port director, or other duly accredited officers or agents of the United States, except

on subpoena by a court of competent jurisdiction.

**§ 111.25 Records must be available.**

During the period of retention, the broker must maintain the records referred to in this part in such a manner that they may readily be examined. Records required to be made or maintained under the provisions of this part must be made available upon reasonable notice for inspection, copying, reproduction or other official use by CBP regulatory auditors or special agents or other authorized CBP officers within the prescribed period of retention or within any longer period of time during which they remain in the possession of the broker. Records subject to the requirements of part 163 of this chapter must be made available to Customs in accordance with the provisions of that part.

**§ 111.26 Interference with examination of records.**

Except in accordance with the provisions of part 163 of this chapter, a broker must not refuse access to, conceal, remove, or destroy the whole or any part of any record relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Department of Homeland Security or any representative of the Department of Homeland Security, nor may he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in those records.

**§ 111.27 Audit or inspection of records.**

The Field Director, Regulatory Audit, will make any audit or inspection of the records required by this subpart to be kept and maintained by a broker as may be necessary to enable the port director and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this part.

**§ 111.28 Responsible supervision.**

(a) *General.* Every individual broker operating as a sole proprietor and every licensed member of a partnership that is a broker and every licensed offi-

cer of an association or corporation that is a broker must exercise responsible supervision and control (see § 111.1) over the transaction of the customs business of the sole proprietorship, partnership, association, or corporation.

(b) *Employee information*—(1) *Current employees*—(i) *General.* Each broker must submit, in writing, to the director of each port at which the broker intends to transact customs business, a list of the names of persons currently employed by the broker at that port. The list of employees must be submitted upon issuance of a permit for an additional district under § 111.19, or upon the opening of an office at a port within a district for which the broker already has a permit, and before the broker begins to transact customs business as a broker at the port. For each employee, the broker also must provide the social security number, date and place of birth, current home address, last prior home address, and, if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker. After the initial submission, an updated list, setting forth the name, social security number, date and place of birth, and current home address of each current employee, must be submitted with the status report required by § 111.30(d).

(ii) *New employees.* In the case of a new employee, the broker must submit to the port director the written information required under paragraph (b)(1)(i) of this section within 10 calendar days after the new employee has been employed by the broker for 30 consecutive days.

(2) *Terminated employees.* Within 30 calendar days after the termination of employment of any person employed longer than 30 consecutive days, the broker must submit the name of the terminated employee, in writing, to the director of the port at which the person was employed.

(3) *Broker's responsibility.* Notwithstanding a broker's responsibility for providing the information required in paragraph (b)(1) of this section, in the absence of culpability by the broker,